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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,921

01/17/2006

Bart Gerard Bernard Barenbrug

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10/10/2008

NXP, B.V.

NXP INTELLECTUAL PROPERTY DEPARTMENT

M/S41-SJ

1109 MCKAY DRIVE

SAN JOSE, CA 95131

EXAMINER

CASCHERA, ANTONIO A

ART UNIT

PAPER NUMBER

2628

NOTIFICATION DATE

DELIVERY MODE

10/10/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

Office Action Summary	Application No. 10/564,921	Applicant(s) BARENBRUG ET AL.	
	Examiner Antonio A. Caschera	Art Unit 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in the pending application.

Specification

2. The abstract of the disclosure is objected to because the abstract comprises figure reference numerals which should be omitted. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 6 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In reference to claim 6, the language of the claim raises questions as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. Specifically, newly implemented practices and procedures directed towards the analysis of claim language as per 35 U.S.C. 101 question the antecedent basis for the claimed terminology of a "computer readable medium" as recited in claim 6. The specification of the instant application does not explicitly

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define the term, "computer readable medium" however it does mention various forms of storage (i.e. ROM, CD-ROM, "record carrier," "wired or wireless communication means" etc.) capable of storing machine readable code for implementing the processing of data as detailed in the claims (see pages 12-13 of Applicant's specification). The specification does clearly suggest to one of ordinary skill in the art that such a computer medium could be one of signals, record carrier such as wired or wireless communication means or other forms of propagation and transmission media (page 13, lines 1-7 and 20-23 of Applicant's specification) which fail to be an appropriate manufacture under 35 U.S.C. 101 in the context of computer-related inventions and therefore requires the rejection of claim 6 under such reasoning.

Note, in regards to the analyzation of claims 1-5 in view of 35 USC 101, the Office deems such claims as reciting statutory subject matter as the current practices and procedures of the Office deem the apparatus of claim 1, and therefore all dependent upon claims 2-5, to be a physical hardware device/apparatus since, at least, claim 1 describes a physical "texture memory" as part of the apparatus (see lines 1-2 of claim 1).

Allowable Subject Matter

5. Claims 1-5 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

In reference to claim 1, the prior art of record does not explicitly disclose a resampler operative to resample data from a texture map of a corresponding primitive to a corresponding pixel by operatively selecting a resampling algorithm for a set of at least two distinct resampling

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algorithms, the selection being in dependence on a size of the primitive, in combination with the further limitations of claim 1.

In reference to claims 2-5, claims 2-5 depend upon allowable claim 1 and are therefore also deemed allowable.

Further, claim 6 would also be deemed allowable if/when such 35 USC 101 rejections were corrected for the same reasons as applied to claim 1 above.

Response to Arguments

6. The cancellation of claim 7 is noted.

7. Applicant's arguments, see page 7 of Applicant's Remarks, filed 07/14/08, with respect to the objection to the drawings have been fully considered and are persuasive. The objection of the drawings has been withdrawn since informalities have been corrected for regarding the reference numbers of the drawings.

8. Applicant's arguments, see page 7 of Applicant's Remarks, filed 07/14/08, with respect to the objection to claim 1 have been fully considered and are persuasive. The objection of claim 1 has been withdrawn since minor informalities have been corrected for. Note, a further updated prior art search has yielded no more applicable, as per rejection purposes, prior art thereby placing the claims in condition for allowance.

9. Note, the objection to the specification, in particular the abstract, is maintained since not all reference numbers from the abstract have been omitted in the latest amendment to the abstract.

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10. Applicant's arguments filed 07/14/08 have been fully considered but they are not persuasive.

In response to Applicant's arguments requesting withdrawal of the 35 USC 101 rejection of claim 6 (see page 7 of Applicant's Remarks), the Office disagrees. The specification does clearly suggest to one of ordinary skill in the art that such a newly amended limitation of "computer medium" could be one of signals, record carrier such as wired or wireless communication means or other forms of propagation and transmission media (page 13, lines 1-7 and 20-23 of Applicant's specification) which fail to be an appropriate manufacture under 35 U.S.C. 101 in the context of computer-related inventions and therefore requires the rejection of claim 6 under such reasoning.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781. The examiner can normally be reached Monday-Thursday and alternate Fridays between 7:00 AM and 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung, can be reached at (571) 272-7794.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

571-273-8300 (Central Fax)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (571) 272-2600.

/Antonio A Caschera/

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Temporary Full Signatory Authority

10/10/08